

7-28-06

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/764,669
Filing Date	01/26/2004
First Named Inventor	Thomas J. Luby
Art Unit	3751
Examiner Name	Andrew J. Rost
Attorney Docket Number	5671.051

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input checked="" type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/
Incomplete Application
<input type="checkbox"/> Reply to Missing Parts
under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a
Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation of POA,
Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board
of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify
below): |
|--|---|--|

Remarks

1. Transmittal (1 pages);
2. Fee Transmittals (3 pages);
3. Credit Card Payment Forms (3 pages);
4. Petition to Withdraw Holding of Abandonment (3 pages);
5. Supporting Documents (Global Docket) (7 pages); and
6. Postcard.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	DUNLAP, CODDING & ROGERS, P.C.		
Signature	<i>Marc Brockhaus</i>		
Printed name	Marc A. Brockhaus		
Date	07/27/2006	Reg. No.	40,923

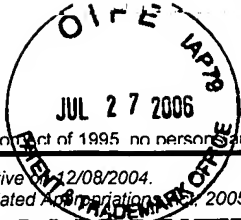
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: *** EXPRESS MAIL NO. EL 971032054 US ***

Signature	<i>Marc Brockhaus</i>		
Typed or printed name	Marc A. Brockhaus	Date	07/27/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Effective 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) **1400****Complete if Known**

Application Number	10/764,669
Filing Date	01/26/2004
First Named Inventor	Thomas J. Luby
Examiner Name	A. Rost
Art Unit	3751
Attorney Docket No.	5671.051

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
_____ - 20 or HP =	1	x	0

HP = highest number of total claims paid for, if greater than 20

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
_____ - 3 or HP =	x		0

HP = highest number of independent claims paid for, if greater than 3

<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
		0

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
_____ - 100 =	0	/ 50 =	(round up to a whole number) x	0

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Issue Fee

Fees Paid (\$)

0

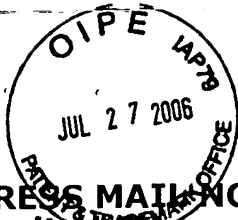
1400

SUBMITTED BY

Signature	<i>Marc Brockhaus</i>	Registration No. (Attorney/Agent)	40,923	Telephone	405-607-8600
Name (Print/Type)	Marc A. Brockhaus	Date	07/27/2006		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



EXPRESS MAIL NO.: EL 971032054 US
Deposited On: July 27, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/764,669 Confirmation No.: 8798
Applicant(s) : Luby, Thomas J.
Filed : 1/26/2004
TC/AU : 3751
Examiner : Andrew J. Rost
Title : WET WELL VALVE
Docket No. : 5671.051
Customer No. : 30589

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE

Pursuant to Section 711.03(c) of the Manual of Patent Examining Procedure and 37 C.F.R. § 1.181, Applicants respectfully request reconsideration of the holding of abandonment in the above referenced application. Applicants respectfully submit that there is no basis for abandonment, because Applicants attorney never received the Notice of Allowance mailed on February 9, 2006. Applicant's attorney has searched their Global Docketing System and the file jacket and there is no evidence that they ever received the Notice of Allowance. In particular, Applicants request reconsideration of the holding of abandonment under Section 711.03(c) and 37 C.F.R. § 1.181 for the following reasons:

08/01/2006 MAHMED2 00000094 10764669

02 FC:1453

1500.00 OP

(1) The Applicants' attorney first became aware of the Notice of Allowance when they received the Notice of Abandonment mailed on June 23, 2006.

(2) Applicants attorney submits that the Notice of Allowance was not received by the law firm of Dunlap, Coddling & Rogers, P.C. and that a search of the file jacket and docket records indicates that the Notice of Allowance was not received.

(3) Applicants submit herewith as Exhibit A a printout from Applicant's attorney's Global Docketing System for February 9, 2006 through June 30, 2006. This time frame covers the time frame from when the Notice of Allowance that was mailed to when the Notice of Abandonment was received by Applicant's attorney. The printout from Applicant's attorney's Global Docketing System shows that the Notice of Allowance mailed on February 9, 2006 was never entered into Applicant's attorney's Global Docketing System. Applicant's attorney would like to point out that everything but the dates and the Reference Nos. (Attorney Docket Nos.) on the Global Docketing System have been redacted.

(4) Applicants submit herewith as Exhibit B a printout of all the entries made into Application No. 10/764,669's (Attorney Docket No. 5671.051) docket.

(5) Also enclosed herewith is a submission of the issue fee and the appropriate documents.

Applicants respectfully requests that the issue fee be received and the patent application be re-instated to an active status.

If the petition is not granted under Section 711.03(c) of the Manual of Patent Examining Procedure and 37 C.F.R. § 1.181, then Applicants' attorney

is not sure whether this petition should be filed under 37 CFR 1.137 (a) as unavoidable , or 37 CFR 1.137(b) as unintentional.

In this regard, it is believed that the non-reply to the Notice of Allowance was unavoidable due to the fact that the Notice of Allowance was never received by Applicant's attorney.

If the delay in reply to the Notice of Allowance is determined not to be unavoidable, then it should be understood that the entire delay from the due date for the issue fee and the filing of this petition was unintentional.

Attached hereto are three form 2038 Credit Card Payment Forms - one which includes the payment of the issue fee, the second includes payment of the issue fee as well as the petition fee under §1.17(l), and another one which includes the issue fee as well as the petition fee under §1.17(m). Please use the appropriate Credit Card Payment form, and discard the other.

Should you have any questions regarding the foregoing, please do not hesitate to call me.

Respectfully submitted,



Marc A. Brockhaus, Reg. No. 40,923
DUNLAP, CODDING & ROGERS, P.C.
1601 N.W. Expressway, Suite 1000
Oklahoma City, Oklahoma 73118
(405) 607-8600 - telephone
(405) 607-8686 - telefax

Attorney for Applicant

Global Docket

Printed: 7/25/2006 Page 2

DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
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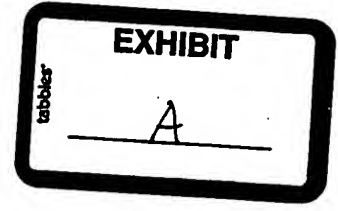
January continued...

13 Fri	CAC/NDRL/KW	6187.014						
13 Fri	CAC/NDRL/KW	6187.014						
14 Sat	JJD/NDRL/KW	2359.009						
15 Sun	MAB/MAB/MJR	2551.031						
15 Sun	MAB/MAB/MJR	35060.145						
15 Sun	MAB/MAB/MJR	8245.034						
16 Mon	MAB/MAB/MJR	8245.026						
19 Thu	MAB/MAB/MJR	2551.034						
19 Thu	NDR/NDRL/KW	5290.006						
20 Fri	CAC/CWC/KBL	8402.644ca						
21 Sat	MAB/MAB/MJR	8245.039						
22 Sun	MAB/MAB/MJR	5864.003						
24 Tue	MAB/MAB/MJR	8245.056						
27 Fri	GMB/GMB/MRK	6751.009						
30 Mon	KLH/GNR/LJM	8402.511						
31 Tue	GMB/GMB/MRK	1333.038						
31 Tue	NDR/NDRL/KW	3516.012						
31 Tue	NDR/NDRL/KW	3516.012						

February 2006

05 Sun	NDR/NDRL/KW	281.004
05 Sun	MAB/MAB/MJR	8102.016
07 Tue	CAC/CWC/KBL	8401.446ca1
08 Wed	CAC/CWC/KBL	1716.001

Redacted



Global Docket

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DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
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February continued...

10 Fri	CAC/CWC/KBL	8403.694ca						
12 Sun	MAB/MAB/MJR	1950.009						
14 Tue	GMB/GMB/MRK	3244.004						
15 Wed	MAB/MAB/MJR	2551.031						
15 Wed	MAB/MAB/MJR	8245.034						
18 Sat	KLH/GMB/MRK	8403.852ca						
20 Mon	CAC/CWC/KBL	5775.018						
20 Mon	CAC/CWC/KBL	5820.640						
20 Mon	CAC/CWC/KBL	8403.694ca						
21 Tue	MAB/MAB/MJR	1950.003						
22 Wed	MAB/MAB/MJR	5864.003						
28 Tue	MAB/MAB/MJR	638.008						
28 Tue	KLH/GNR/LJM	8402.511						
28 Tue	KLH/GNR/LJM	8403.012						

March 2006

01 Wed	MAB/JPD/NFN	4264.023						
11 Sat	DJS/KLH/LJM	66802.059ep						
15 Wed	DJS/KLH/LJM	35542.098ca						
15 Wed	CAC/CWC/KBL	8402.644co						
18 Sat	CAC/NDR/LKW	7777.001						
19 Sun	MAB/MAB/MJR	2551.034						
24 Fri	CAC/CWC/KBL	7356.005						
25 Sat	MAB/MAB/MJR	1950.024						

Global Docket

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ATTY1/ATTY2	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
DUE	PARA						

March continued...

27 Mon MAB/JPD/NFN 4264.027
 27 Mon NDR/NDR/LKW 6731.003
 27 Mon KLH/GNR/LJM 8402.841
 28 Tue MAB/JPD/NFN 8379.002
 28 Tue MAB/JPD/NFN 8379.005
 28 Tue KLH/GNR/LJM 8403.012
 30 Thu MAB/MAB/MJR 8245.016

April 2006

01 Sat CAC/GMB/MRK 5120.008
 02 Sun GNR/NDR/LKW 35060.114kr
 02 Sun MAB/JPD/NFN 4264.029
 10 Mon GMB/JPD/MRK 7864.003
 11 Tue CAC/KLH/LJM 5820.641
 11 Tue KLH/GNR/LJM 8403.887
 13 Thu GNR/MAB/MJR 8245.064jp
 16 Sun MAB/MAB/MJR 8245.026
 18 Tue CAC/CWC/KBL 5837.035
 19 Wed CAC/CWC/KBL 5820.636
 20 Thu DJS/KLH/LJM 66802.056ca
 24 Mon MAB/MAB/MJR 2635.004

May 2006

01 Mon CAC/GMB/MRK 7410.005
 02 Tue NDR/JPD/LKW 5042.004

Redacted

Global Docket

DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
<i>May continued...</i>								
03 Wed	DJS/NDRL/KW	1675.006wo						
04 Thu	CAC/GMB/MRK	2246.002						
05 Fri	CAC/MAB/MJR	5671.092						
05 Fri	MAB/MAB/MJR	5863.043wo						
07 Sun	CAC/CWC/KBL	4957.001wo						
08 Mon	DJS/NDRL/KW	1675.005						
08 Mon	DJS/NDRL/KW	1675.007						
08 Mon	CAC/CWC/KBL	5820.645						
08 Mon	KLH/GNR/LJM	8403.953						
10 Wed	CAC/CWC/KBL	5838.041ca						
14 Sun	JJD/NDRL/KW	2359.009						
14 Sun	JJD/JJD/KBL	366.001ok						
14 Sun	MAB/MAB/MJR	8245.024hk						
18 Thu	CAC/CWC/KBL	1717.006						
19 Fri	CAC/KLH/LJM	5820.606						
21 Sun	MAB/MAB/MJR	8245.039						
24 Wed	CAC/GMB/MRK	7332.001						
25 Thu	JJD/JJD/KBL	6542.009						
27 Sat	CAC/GMB/MRK	2280.002						
28 Sun	MAB/JPD/NFN	8379.005						
29 Mon	NDR/JPD/LKW	1471.000						
29 Mon	MAB/MAB/MJR	2551.049						

Redacted

Global Docket

Printed: 7/25/2006 Page 6

DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
<i>May continued...</i>								
29 Mon	DJS/DJS/EDB	4576.002						
29 Mon	CAC/NDR/LKW	7777.004						
31 Wed	CWC/KLH/LJM	5820.639						
June 2006								
02 Fri	JJD/JJD/KBL	6542.010						
05 Mon	CAC/KLH/LJM	3397.002						
05 Mon	CAC/CWC/KBL	5838.061ep2						
06 Tue	GMB/JPD/MRK	209.093						
07 Wed	GMB/GMB/MRK	209.086						
09 Fri	DJS/KLH/LJM	35541.016ep1						
13 Tue	CAC/GMB/MRK	5120.000						
13 Tue	CAC/CWC/KBL	5864.028						
13 Tue	MAB/MAB/MJR	8245.041						
14 Wed	CAC/CWC/KBL	5838.060						
15 Thu	JJD/JJD/KBL	3519.000ok						
15 Thu	GNR/CWC/KBL	7356.017wo						
16 Fri	JJD/JJD/KBL	8328.002wo						
17 Sat	CAC/CWC/KBL	5838.014au1						
17 Sat	CAC/CWC/KBL	5838.016ca						
17 Sat	CAC/CWC/KBL	5838.061ep2						
19 Mon	MAB/MAB/MJR	8245.072ep						
20 Tue	NDR/NDR/LKW	6719.001						
21 Wed	CAC/MAB/MJR	5671.088						

Rejected

Global Docket

ATTY/ATTY2	REFERENCE#	TITLE / MARK	CLIENT	REG/SERIAL#	ACTION	CURRENT EXT	EXT AVAILABLE
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June continued...

21 Wed	GMB/GMB/MRK	6027.002					
21 Wed	GMB/GMB/MRK	6027.011					
21 Wed	KLH/CWC/KBL	8404.202					
23 Fri	NDR/NDR/LKW	7957.002					
24 Sat	CAC/GMB/MRK	6180.014					
24 Sat	MAB/MAB/MJR	8245.011au					
26 Mon	GMR/CWC/KBL	1717.010cn					
27 Tue	JJD/JJD/KBL	1300.001					
27 Tue	CAC/GMB/MRK	7873.001					
27 Tue	MAB/JPD/NFN	8379.015					
28 Wed	CAC/CWC/KBL	5775.026					
28 Wed	CAC/CWC/KBL	8401.407ca1					
30 Fri	MAB/MAB/MJR	2551.029ep1					
30 Fri	MAB/MAB/MJR	2551.079					
30 Fri	DJS/KLH/LJM	35542.104					

Redacted

D&C# 5671.051

PRINTED ON: 7/13/2006

COUNTRY	US	UNITED STATES	TITLE	
NEW/CON	FCA	SERIAL#	10/764,669	WET WELL VALVE
RELATED	5671.044	PATENT#		
TYPE	UTL	STATUS	PENDING	
CLIENT	5671	NOMADICS, INC.	1	CREF NON-PUBL/NO FOREI
AGENT				AREF

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P
PN	Y	NON-PUBLICATION RQST	1/26/2004										
PC	N	POST CARD CHECK	1/26/2004	1M	2/26/2004	91	11/26/2004	0	2/5/2004	0M	Y	Y	Y
xx	N	File Declaration	1/26/2004	3M	4/26/2004		4/26/2004	0	6/14/2004	0M	Y	Y	Y
FS	N	FILG RCPT STATUS CHK	1/26/2004	3M	4/26/2004	31	7/26/2004	3	5/3/2004	0M	Y	Y	Y
7/6 - rec'd updated filing receipt													
ID	N	IDS W/ PTO-1449	1/26/2004	3M	4/26/2004	91	1/26/2005	2	6/14/2004	0M	Y	Y	Y
G2	N	MISSING PARTS (2 MO)	5/3/2004	2M	7/3/2004	41	11/3/2004	0	6/14/2004	0M	Y	Y	Y
6/19 - rec'd pc													
AS	Y	ASSIGNMENT	7/6/2005										
9/6/05 - rec'd confirmation													
AS	Y	ASSIGNMENT	7/7/2005										
SC	N	STATUS CHECK	1/26/2004	18M	7/26/2005	41	11/26/2005	1	8/10/2005	0M	Y	Y	Y
RE	N	RESPONSE TO OA	8/10/2005	3M	11/10/2005	31	2/10/2006	3	1/10/2006	0M	Y	Y	Y
1/18 - rec'd pc													
	N	RE STATUS CHECK	1/10/2006	6M	7/10/2006		7/10/2006	0		0M	Y	Y	Y
WA	N	REQ WITHDRWL OF ABND	6/23/2006	1m	7/23/2006	21	9/23/2006	0		2M	Y	Y	Y
Did not receive Notice of Allowance													

INVENTORS

Luby, Thomas J.

ASSIGNEES

Nomadics, Inc.

EXHIBIT

tabbier

B

PRIOR APPLICATIONS

REFERENCE#	CNTRY	SERIAL#	FILED	TITLE / DESCRIPTION	TYPE
5671.044	US	60/442,851	1/24/2003	WET WELL VALVE	APPL

USER-DEFINABLE FIELDS

ASSIGN	016491/0476; 5 pgs; 07/07/05
CLNTS#	
PBL#	

PATENT FIELDS

SMALL ENTITY		ART UNIT	
CLAIMS		EXAMINER	
PUBLICATION#		CONFIRM#	8798

P06654US01 ENTERED 1/16/2004 MODIFIED 6/30/2006 BY mhh ATTORNEYS MAB / MAB / MJR

NOTES

Redacted